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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Drewe *et al.*

Appl. No. 09/836,548

Filed: April 18, 2001

For: **Substituted 1,4-Thiazepine and
Analogues as Activators of Caspases
and Inducers of Apoptosis and the
Use Thereof**

Confirmation No. 6789

Art Unit: 1624

Examiner: Coleman, B.

Atty. Docket: 1735.0450001/RWE/RAS

Reply To Restriction Requirement

Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Office Action dated June 24, 2002, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-14, 22-40 and 47-93. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse. All of the compounds of Groups I through IV comprise the same 7-membered heterocyclic ring as a structural backbone. A search of the structural backbone would reveal art relevant to all of the restricted groups. Thus, there would be no undue burden to examine the claims of the restricted groups together.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

In reply to the requirement for election of species, Applicants hereby provisionally elect 4-hydroxy-3-[7-(2-methoxy-4-methylsulfonyl-phenyl)-2,3,6,7-

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tetrahydro-[1,4]thiazepin-5-yl]-6-methyl-pyran-2-one. Claims 1, 4-7, 47, 54-58, 60, 61, 66, 67, 69-71, 75-77, 79-81 and 85-93 read on such species. Applicants assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a).

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: August 15, 2002

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